

PART 5108—REQUIRED SOURCES OF SUPPLIES AND SERVICES

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35 and DOD FAR Supplement 201.301.

5108.070 Definitions.

As used in this section:

Memorandum of Understanding Planned Producer means an industrial firm which has indicated its willingness to produce specified military items in a declared national emergency by completing a Memorandum of Understanding with an accompanying Industrial Preparedness Program Production Capacity Survey (DD Form 1519 TEST). The firm is eligible to be solicited for all buys of the item(s) over \$25,000 excluding acquisitions for which competition is restricted to the Restricted Specified Base or Limited Fee Planned Producers in accordance with an approved Justification and Approval.

Limited Fee Planned Producer means an industrial firm which is contractually bound by inclusion of AFARS 5152.208-9001 in their contract to maintain production capacity for a negotiated length of time, to conduct subcontractor planning, and to produce specified military items in the event of a declared national emergency or in the event of a declared national emergency or contingencies short of a declared national emergency. The firm is eligible to be solicited for all buys of the item(s) over \$25,000 except acquisitions for which competition is restricted to the Restricted Specified Base in accordance with an approved Justification and Approval.

Restricted Specified Base Planned Producer means an industrial firm which is contractually bound to maintain production capacity for a negotiated length of time, to conduct subcontractor planning, and to produce specified military items in the event of a declared national emergency, or contingencies short of a declared national emergency. The firm is eligible to be solicited for all buys of the item(s) over \$25,000.

(g)(1)(i) Solicitation of Memorandum of Understanding Planned Producers in all acquisitions over \$25,000 which are

for items for which they have been designated as a Memorandum of Understanding Planned Producer except those restricted to the Restricted Specified Base Planned Producers or Limited Fee Planned Producers in accordance with an approved Justification and Approval.

(ii) Solicitation of Limited Fee Planned Producers in all acquisitions over \$25,000 which are for items for which they have been designated as a Limited Fee Planned Producer, except those restricted to the Restricted Specified Base.

(iii) Solicitation of Restricted Specified Base Planned Producers in all acquisitions over \$25,000 which are for items for which they have been designated as a Restricted Specified Base Planned Producer.

(g)(4) The clause at 5152.208-9001 is to be used for all contracted planning efforts.

[54 FR 38682, Sept. 20, 1989]

PART 5119—SMALL BUSINESS AND SMALL DISADVANTAGED BUSI- NESS CONCERNS

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AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, FAR 1.301 and DOD FAR Supplement 201.301.

SOURCE: 54 FR 15410, Apr. 18, 1989, unless otherwise noted.

Subpart 5119.10—Small Business Competitiveness Demonstration Program

5119.1001 General.

This subpart implements Pub. L. 100-656, section 722, "Expanding Small Business Participation in Dredging"

5119.1002

(the Dredging Program). The Program will be conducted through 30 September 1992.

5119.1002 Definitions.

(S-90) "Emerging Small Business Reserve Amount" (ESBRA) means the dollar threshold for contracting opportunities in dredging, below which competition shall be conducted exclusively among emerging small business concerns. This amount is set forth in 5119.1070-2(a)(S-90).

5119.1003 Purpose.

(c)(S-90) The purpose of the Dredging Program is to—

(i) Expand small business and emerging small businesses (ESB) participation in contracting opportunities for dredging through restricted competition.

(ii) Demonstrate the existence of a sufficient number of small businesses and ESBs which meet the current size standard for Standard Industrial Code (SIC) Code 1629 (Dredging and Surface Cleanup Activities) as an indicator of the adequacy of the current size standard.

5119.1004 Participating agencies.

Participation in this Dredging Program is limited to the Department of the Army, Corps of Engineers.

5119.1005 Applicability.

(S-90) The program shall apply to solicitations issued by the Department of the Army Corps of Engineers buying activities for the procurement of dredging under SIC 1629 (Dredging and Surface Cleanup Activities), limited to Federal Procurement Data Systems (FPDS) codes Y216 and Z216. This includes both maintenance dredging and new start (new work) construction dredging. Dredging to be performed by Government forces utilizing the Federally owned fleet pursuant to 33 U.S.C. 622 is not subject to the program.

5119.1070 Procedures.

5119.1070-2 Emerging small business set-aside.

(a)(S-90) Solicitations for dredging shall be set-aside for exclusive competition among ESBs when the esti-

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mated award value is equal to or less than the emerging small business reserve amount (ESBRA) of \$600,000. (Except that dredging acquisitions shall continue to be considered for placement under the 8(a) program (see FAR subpart 19.8) and for small disadvantaged business set-asides (see DFARS 219.502-72)). The ESBRA applies only to new awards. Modifications or follow-on awards to contracts having an initial award value in excess of the ESBRA are not subject to this requirement. The set-aside requirements in DFARS 219.1070-2 (a) and (b) for designated industry groups acquisitions valued at \$25,000 or less shall be complied with for all dredging program set-asides.

(S-90) The contracting office shall include the applicable SIC Code and dollar size standard in the synopsis of proposed procurement as published in the Commerce Business Daily (CBD), in the presolicitation notice (construction contract) SF 1417 when issued, and in the solicitation documents.

(S-91) The contracting officer shall consider use of the following initiatives to increase participation by small businesses and emerging small businesses:

(1) Specifying of contract requirements and contractual terms and conditions which are conducive to competition among small business and emerging small business concerns, consistent with the mission or program requirements of the Department of the Army, Corp of Engineers.

(2) Encouraging joint ventures, teaming agreements, and similar arrangements consistent with the Small Business Act (15 U.S.C. 637(d)) for the purpose of including small business concerns in contracting opportunities. However, no such joint venture shall exceed the applicable size standard.

(3) Making maximum use of subcontracting through plans negotiated and enforced pursuant to section 8(d) of the Small Business Act. Goals may be specified in solicitations stating minimum percentages of subcontracting.

5119.1070-3 Identification and reporting.

(b) Reporting shall be done in accordance with DFARS 204.6 designated industry group requirements. Block

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5145.302-3

B12A, DD Form 350, shall contain either the FPDS Code Y216 or Z216, as applicable, per 5119.1005 (S-90).

5119.1071 Solicitation provisions and contract clauses.

(a) DFARS provision 252.219-7012 shall be inserted in all solicitations issued under the Small Business Dredging Program (SIC 1629, limited to FPDS Service Codes Y216/Z216).

(b) DFARS clause 252.219-7013 shall be inserted in all solicitations and contracts set-aside for emerging small businesses in accordance with 5119.1070-2(a) (S-90).

PART 5145—GOVERNMENT PROPERTY

5145.301 Definitions.

5145.302-3 Other contracts.

5145.303 Providing material.

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

SOURCE: 54 FR 39538, Sept. 27, 1989, unless otherwise noted.

5145.301 Definitions.

Other Government Property means all property, other than Special Use Property as defined below, which may be offered to a contractor for use in performance of installation support services contracts.

Special Use Property means property that is (a) "agency peculiar property", (b) necessary for mobilization requirements; or (c) property for which it has been determined that title should remain with the Government.

5145.302-3 Other contracts.

(S-90)(1) When it is determined that contractor use of existing Government facilities, other than special use property, in the performance of installation support services contracts, is in the best interest of the Government, the Government facilities will be offered to a contractor for use in the performance of the Government contract. Facilities provided to a contractor under this authority will not be replaced by the Government when they can no longer be used by the contractor. Nevertheless, it will be the contractor's respon-

sibility to continue performance in accordance with the terms of the contract.

(2)(i) New facilities shall not be purchased in order to provide them to contractors. Prior to offering existing facilities under this authority, a contracting officer shall make a written determination, based on the detailed justification provided by the approving officials and program/project manager, that such use is in the best interest of the Government. The written determination shall be kept in the contract file.

(ii) Existing facilities offered for contractor use will be offered to all bidders/offerors for their consideration in the preparation of their bids and offers. Bidders/offerors may choose to use any or all of the facilities offered.

(3) When it is determined that contractor use of special use property in the performance of installation support services contracts is in the best interest of the Government, such property will be provided. It will be accounted for and managed under the appropriate Government property clause. For example, FAR 52.245-2 for fixed-price contracts or FAR 52.245-5 for cost-reimbursement contracts and any appropriate provision from FAR 52.245-11, Facilities Use Clause.

(S-91) Required Government property clauses for other than facilities contracts.

(1) In addition to the clauses at FAR 52.245-2 and 52.245-19, the Contracting Officer shall insert the clause at 5152.245-9000, Government Property for Installation Support Services (Fixed-Price Contracts), in solicitations and contracts when a fixed-price contract is contemplated and Government property will be provided without being replaced by the Government.

(2) The Contracting Officer shall insert the clause at 5152.245-9001, Government Property for Installation Support Services (Cost-Reimbursement Contracts), in solicitations and contracts when a cost-reimbursement type contract is contemplated and the Government property will be provided without being replaced by the Government.